

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHELE VALVO,

1:19-cv-08341 (JPO)

Plaintiff,

- against -

THE DEPARTMENT OF EDUCATION OF THE
CITY OF NEW YORK, and THE UNITED
FEDERATION OF TEACHERS,

**DECLARATION OF
MICHAEL J. DEL PIANO IN
SUPPORT OF DEFENDANT
UFT'S MOTION TO
DISMISS THE COMPLAINT**

Defendants.

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MICHAEL J. DEL PIANO, pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury that the following is true and correct:

1. I am an attorney admitted to practice law before the courts of the State of New York and this Court.

2. I am of counsel to Robert T. Reilly, attorney for defendant United Federation of Teachers (“UFT”). I am familiar with the facts of this matter based upon my review of the file and conversations with representatives of the UFT.

3. I submit this declaration in support of the UFT’s motion to dismiss the Amended Complaint by Plaintiff Michele Valvo (“Plaintiff”) under Fed. R. Civ. Pro. Rules 12(b)(1) and (6).

4. UFT is an unincorporated association existing pursuant to the N.Y. General Associations Law.

5. UFT is also an employee organization pursuant to the New York Public Employees’ Fair Employment Act, N.Y. Civ. Serv. Law §§ 200, *et seq.* (“Taylor Law”) and is the exclusive bargaining representative for, among other positions, all paraprofessionals employed by

the Board of Education of the City School District of the City of New York, also known as the New York City Department of Education (“DOE”).

6. UFT has approximately 183,000 in-service and retired members.

7. A true and accurate copy of the Complaint (Dkt. No. 1) is attached hereto as Exhibit “A”. A true and accurate copy of the Amended Complaint (Dkt. No. 17) is attached hereto as Exhibit “B”.

8. UFT and the Department were parties to a collective bargaining agreement (“CBA”) covering paraprofessionals from November 1, 2009 through November 20, 2018. A copy of the CBA is attached as Exhibit “C”.

9. A true and accurate copy of the letter from Paul Proscia to Plaintiff regarding her termination, dated February 9, 2018, is attached as Exhibit “D”.

10. A true and accurate copy of Plaintiff’s Step 1 grievance, dated February 14, 2018, is attached as Exhibit “E”.

11. A true and accurate copy of the letter from Paul Proscia to Plaintiff denying the Step 1 Grievance, dated February 28, 2018, is attached as Exhibit “F”.

12. A true and accurate copy of Plaintiff’s Step 2 grievance demand, dated March 1, 2018, is attached as Exhibit “G”.

13. A true and accurate copy of the Step 2 grievance decision, signed approved by DOE Chancellor Richard A. Carranza on April 26, 2018, is attached as Exhibit “H”.

14. A true and accurate copy of the letter from Ellen Gallin Procida, Director, UFT Grievance Department, to Plaintiff, dated October 12, 2018, is attached as Exhibit “I”.

15. A true and accurate copy of the letter from Ellen Gallin Procida, Director, UFT Grievance Department, to Plaintiff, dated December 5, 2018, is attached as Exhibit “J”.

16. A true and accurate copy of the letter from LeRoy Barr, Director of Staff, UFT, dated April 18, 2019, is attached as Exhibit K".

WHEREFORE, based upon the foregoing, and for the reasons stated in the accompanying Memorandum of Law in Support of Defendant UFT's Motion to Dismiss the Amended Complaint, I respectfully request that the Court dismiss the Amended Complaint as against the UFT in its entirety, and for such other and further relief the Court deems just and proper.

Dated: New York, New York
April 30, 2020

By: /s/ Michael J. Del Piano
Michael J. Del Piano